

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

August 25, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 06OD-160

Oahu

Grant of Perpetual, Non-Exclusive Easement in Favor of TMK: (1) 1-5-33: 9,16 and 19, for Sewer Line Purposes, Kapalama-Kai, Honolulu, Oahu, TMK: (1) 1-5-33: 14

APPLICANT:

The Department of Hawaiian Home Lands (DHHL), by its Hawaiian Homes Commission.

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Situate at Kapalama-Kai, Honolulu, island of Oahu. Being a portion of Royal Patent 7834, in confirmation of Land Commission Award 7714-B, Apana 7 to Moses Kekuaiwa. Conveyed to the Territory of Hawaii by Hawaiian Fertilizer Company, Limited, by deed dated September 15, 1908 and recorded in Liber 310, Pages 100 – 103, as shown on the attached map labeled Exhibit A.

Being also portions of Grant Deed 4096 to Oahu Railway and Land Company and Parcel B of Grant 3378 to Oahu Railway and Land Company and re-conveyed to the State of Hawaii by:

Parcel 1 – Dillingham Corporation to the State of Hawaii by deed dated June 10, 1963 and recorded in Liber 4554, Page 385, as shown on the attached map labeled Exhibit A.

Parcels 2 and 3 – Dillingham Corporation to the State of Hawaii by deed dated October 30, 1963 and recorded in Liber 4627, Pages 455 – 457, as shown on the attached map labeled Exhibit A.

AREA:

363 square feet, more or less.

ZONING:

State Land Use District: Urban

City & County of Honolulu LUO: IMX-1, Industrial Commercial Mixed Use

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act (non-ceded).

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 2173 issued to the City and County of Honolulu as an addition to the Kalihi-Kai Fire Station (Governor's Executive Order No. 1376).

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove lateral sewer transmission pipeline under and across State-owned land in favor of TMK: (1) 1-5-33: 9, 16 and 19, owned by the Department of Hawaiian Home Lands.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List," approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 3, Item No. 3(D) that states "Construction and location of single, new, small facilities or structures and the alteration and modification of same and installation of new, small, equipment and facilities and the alteration and modification of same, including, but not limited to:

- (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities..."

DCCA VERIFICATION:

Not applicable, government agencies are not required to register with the Department of Commerce and Consumer Affairs.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

2. Process and obtain subdivision approval from the City and County of Honolulu, if applicable, at Applicant's own cost.
3. Obtain the written approval from the City and County of Honolulu for the subject sewer line easement affecting the Kalihi-Kai Fire Station.

REMARKS:

The property that will be served by the subject sewer line easement was formerly State land that was conveyed to DHHL pursuant to a Settlement Agreement between the State and DHHL that will transfer 16, 518 acres of State land to DHHL. To date, the fee simple interest in nearly 16,000 acres of State land has been conveyed to DHHL.

DHHL has leased the site to Otani Produce to construct its new offices and warehouse which it expects to complete sometime in September of this year.

City and County of Honolulu records indicate the existence of a lateral sewer line emanating on DHHL's land which then crosses onto the adjacent State-owned parcel encumbered by Governor's Executive Order No. 2173 issued to the City and County of Honolulu as an addition to the Kalihi-Kai Fire Station Site. Here the lateral sewer line hooks up with another lateral sewer line that crosses under Nimitz Highway where it joins the main sewer transmission line.

Granting the subject easement will legitimize the use of the State-owned land and bring its status current.

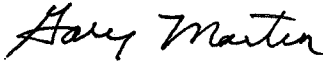
RECOMMENDATION:

That the Board, subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual, non-exclusive easement to the Department of Hawaiian Home Lands by its Hawaiian Homes Commission, covering the subject area for sewer line purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

1. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time.
2. The easement shall run with the land and shall inure to the benefit of the real property described as TMK: (1) 1-5-33: 9, 16 and 19, provided that when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document.
3. Prior approval of the governor.
4. Review and approval by the Department of the Attorney General.

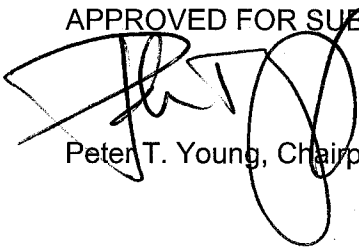
5. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



 Gary Martin
Land Agent

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

DWG. NO. 435
 BY: H.T.K.C. MAY 30, 1952
 SOURCE: THE WHITE HOUSE
 Appr. by: _____
 Revised by: _____
 Appr. by: _____

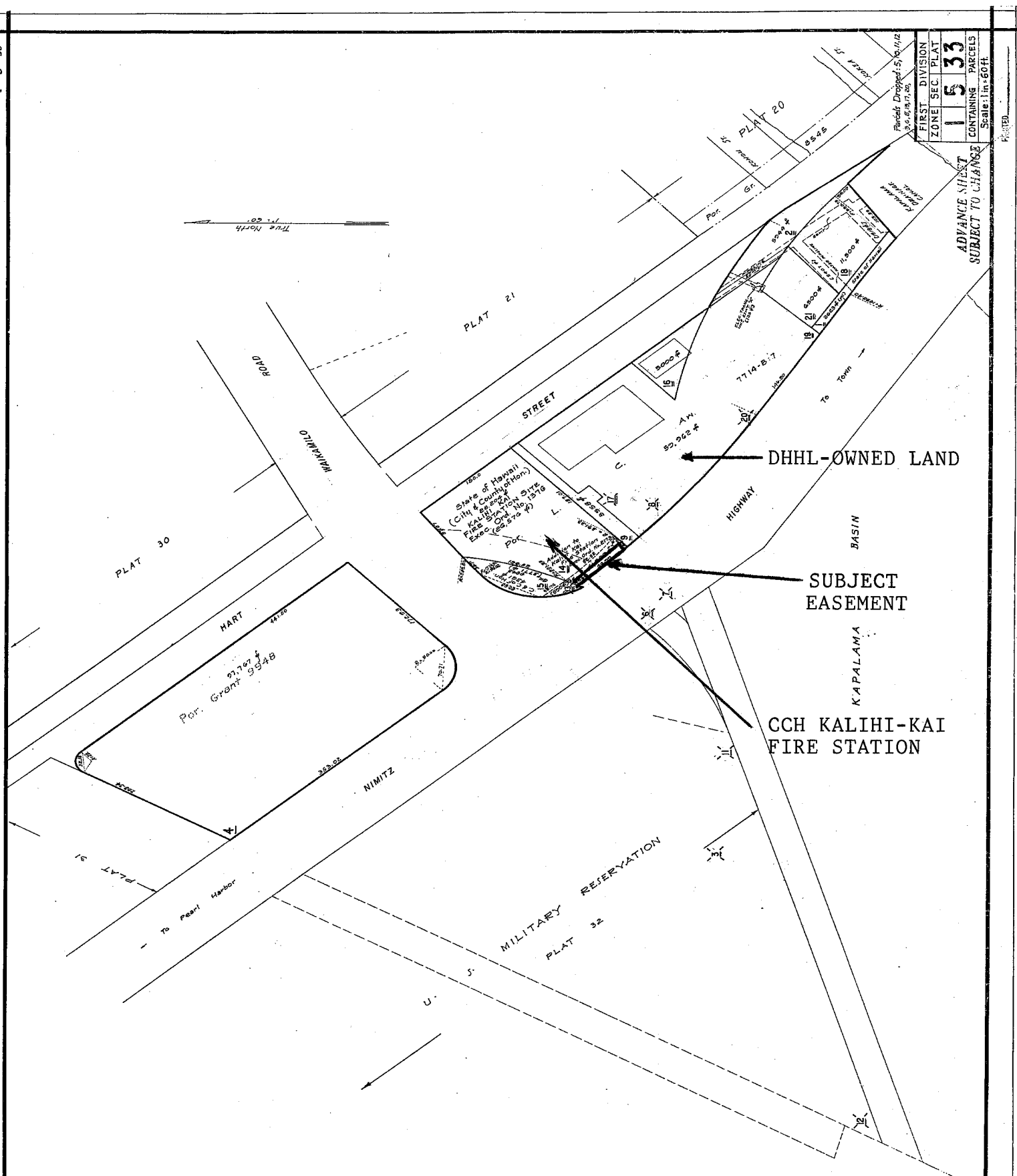


EXHIBIT "A"